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DAMAGES—MENTAL SUFFERING—FAILURE TO DELIVER TELEGRAM PROMPTLY.—An action was instituted by plaintiff to recover damages for mental anguish on account of the failure of the defendant telegraph company to deliver promptly to plaintiff's son-in-law a message filed and signed by plaintiff's son as plaintiff's agent. The message was as follows:—"Will Helms, Charlotte, N. C. Mother very sick. Come at once. John Helms." The defendant was not informed (except inferentially) of the agency. The mental anguish for which recovery was sought was caused by the failure of the sendee and his wife, the daughter of the plaintiff, to reach the bedside of the plaintiff's wife before her death and be present with him after that time. *Held*, (CLARK, C. J., dissenting) that a person who is not mentioned in a telegram or whose interest therein is not communicated to the company cannot recover substantial damages for mental anguish, caused by delay in delivery but only the price paid for transmission. *Helms v. Western Union Telegraph Company* (1906), — N. C. —, 55 S. E. Rep. 831.

This decision is a departure from former holdings of the same court. *Cashion v. Telegraph Co.*, 123 N. C. 267, 31 S. E. Rep. 493; *Id.*, 124 N. C. 459, 32 S. E. Rep. 746, 45 L. R. A. 160; *Landie v. Telegraph Co.*, 124 N. C. 528, 32 S. E. Rep. 886; *Id.*, 126 N. C. 431, 35 S. E. Rep. 810, 78 Am. St. Rep. 668; *Hood v. Telegraph Co.*, 135 N. C. 622, 47 S. E. Rep. 607. The majority opinion expressly admits that the principles now laid down can not be reconciled with the decision in *Cashion v. Telegraph Co.*, *supra*. In the principal case, a strong dissenting opinion by CLARK, C. J., points out that heretofore recoveries have been allowed for mental anguish in actions by four distinct classes of persons—sender, undisclosed principal of sender, sendee, and beneficiary named in message. The principal case rightly falls within the second class while, as appears by an examination of the cases, most of the authorities relied upon in the majority opinion are those of the fourth and last class. The decision here reached probably depends to a large extent upon the view taken of the nature of the action—as contract or tort. The best considered cases regard the action as one for tort founded on contract. *Reese v. Telegraph Co.*, 123 Ind. 294, 24 N. E. Rep. 163; *Cowan v. Telegraph Co.*, 122 Iowa 379, 98 N. W. Rep. 281. Certain North Carolina cases maintain this theory. *Cashion v. Telegraph Co.*, *supra*; *Laudie v. Telegraph Co.*, *supra*; *Cogdell v. Telegraph Co.*, 135 N. C. 431, 47 S. E. Rep. 490. But other cases seem to consider the action as founded on a breach of contract and adhere to the rule of damages laid down in *Hadley v. Baxendale*. *Williams v. Telegraph Co.*, 136 N. C. 82, 48 S. E. Rep. 559; *Cranford v. Telegraph Co.*, 138 N. C. 162, 50 S. E. Rep. 585; *Kennon v. Telegraph Co.*, 126 N. C. 232, 35 S. E. Rep. 468. For further discussion of this subject see MICHIGAN LAW REVIEW, Vol. II, pp. 150, 421, 641, 642; Vol. III, pp. 74, 399; Vol. IV, p. 244; Vol. V, p. 208.

DEEDS—REDELIVERY TO THE GRANTOR—EFFECT AS TO TITLE.—Grantor conveyed a half section of land to her father by a duly delivered deed. This deed the grantee did not have recorded, but gave it to his housekeeper to redeliver to the daughter, provided he died without having it recorded. This